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16 Attorneys for Plaintiff Claudine Saldivar

18 **UNITED STATES DISTRICT COURT**
 19 **NORTHERN DISTRICT OF CALIFORNIA**

20 CLAUDINE SALDIVAR, an individual, on
 21 behalf of herself and on behalf of all persons
 similarly situated,

22 Plaintiff,

24 vs.

25 INSIGHT GLOBAL, LLC, a Delaware
 Corporation; and DOES 1-10, inclusive,

26 Defendants.

Case No. 5:17-cv-05981-NC

Assigned to the Hon. Nathanael M. Cousins

27 **JOINT STIPULATION OF DISMISSAL;
~~[PROPOSED]~~ ORDER**

Complaint Filed: June 23, 2017
 FAC Filed: September 20, 2017
 Trial Date: Not Set

JOINT STIPULATION

Plaintiff CLAUDINE SALDIVAR (“Plaintiff”), by and through her counsel of record, Alexander I. Dychter of Dychter Law Offices, APC, and Defendant INSIGHT GLOBAL, LLC (“Defendant”), by and through its counsel of record, John S. Battenfeld and Kathy H. Gao of Morgan, Lewis & Bockius LLP (collectively, the “Parties”), stipulate as follows:

WHEREAS, Plaintiff initiated this action on June 23, 2017, in the Superior Court of the State of California – County of Santa Clara (Case No. 17CV312200) asserting several class claims for violations of the California Labor Code. On September 20, 2017, Plaintiff filed a First Amended Complaint (“FAC”) adding an additional cause of action under California’s Private Attorneys General Act (“PAGA”), California Labor Code § 2698 *et seq.* (the “PAGA Claim”);

WHEREAS, on October 18, 2017, Defendant removed this action to the United States District Court, for the Northern District of California (Case No. 5:17-cv-05981-NC), pursuant to the Class Action Fairness Act (“CAFA”);

WHEREAS, on November 21, 2017, the Parties filed a Joint Stipulation to Stay Proceedings, pending the United States Supreme Court’s decision in *Ernst & Young LLP et al. v. Stephen Morris et al.*, Case No. 16-300 (“*Ernst & Young*”), which the Court granted on November 29, 2017;

WHEREAS, on June 26, 2018, after the Supreme Court issued a ruling in *Ernst & Young*, the Parties stipulated that: (i) Plaintiff shall arbitrate her individual claims pursuant to the arbitration agreement Plaintiff signed; (ii) Plaintiff shall dismiss *without prejudice* her class claims, in light of the class action waiver contained in Plaintiff's arbitration agreement; and, (iii) Plaintiff's representative PAGA Claim shall be *stayed* in court pending resolution of the arbitration of Plaintiff's individual claims;

WHEREAS, on May 7, 2019, the Parties (including Plaintiff Saldivar) participated in a private mediation before Lisa Klerman, Esq., in Los Angeles, California, which resulted in the execution of a Memorandum of Understanding (“MOU”) resolving Plaintiff’s individual California Labor Code claims, including a release of any claims under the Fair Labor Standards Act (“FLSA”), and a release of her individual claims under PAGA;

1 WHEREAS, PAGA requires court approval of any settlement of a civil action filed
 2 pursuant to PAGA (*see* Cal. Lab. Code § 2699(l)(2));

3 WHEREAS, the Parties have since executed a Confidential Settlement Agreement (the
 4 “Settlement”), as contemplated in the MOU, which resolves all of Plaintiff’s pending claims on
 5 an individual basis, and provides, *inter alia*, that:

- 6 • Plaintiff will dismiss her own PAGA Claim *with prejudice*;
- 7 • The dismissal of the PAGA Claim is *without prejudice* as to the ability of other
 allegedly aggrieved employees to pursue new a new PAGA representative action
 consistent with PAGA’s requirements;
- 8 • No PAGA penalties are being paid to the California Labor and Workforce
 Development Agency (“LWDA”) or to Plaintiff as part of the Parties’ Settlement;
- 9 • Plaintiff’s release as part of the Settlement includes a release of her potential
 claims under the FLSA;

10 WHEREAS, the Parties’ proposed Settlement is being concurrently submitted to the
 11 LWDA as required by Cal. Lab. Code § 2699(l)(2); and

12 WHEREAS, the Parties believe that this individual Settlement is fair and reasonable given
 13 Plaintiff’s operative claims and the fact that the Settlement will not affect any other claims that
 14 may be brought against Defendant by any allegedly aggrieved employee other than Plaintiff under
 15 PAGA.

16 Therefore, the Parties mutually request that the Court enter an order providing as follows:

17 a. Plaintiff’s PAGA Claim is dismissed *with prejudice* as to Plaintiff’s ability to
 18 bring a PAGA representative action, and *without prejudice* as to the ability of any other allegedly
 19 aggrieved employee to pursue a new PAGA representative action consistent with PAGA’s
 20 requirements;

21 b. Plaintiff’s release of her potential FLSA claims is approved; and

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1 c. Each Party shall bear its respective fees and costs, except to the extent that the
 2 Settlement provides otherwise.

3 **IT IS SO STIPULATED.**

4 Dated: June 4, 2019

DYCHTER LAW OFFICES, APC

5 By /S/ Alexander I. Dychter

Alexander I. Dychter
Attorneys for Plaintiff
CLAUDINE SALDIVAR

6 Dated: June 4, 2019

MORGAN, LEWIS & BOCKIUS LLP

7 By /S/ Kathy H. Gao

Kathy H. Gao
Attorneys for Defendant
INSIGHT GLOBAL, LLC

11 **ATTESTATION**

12 I, Alexander I. Dychter, am the ECF user whose identification and password are being
 13 used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that
 14 Kathy H. Gao concurs in this filing.

15 Dated: June 4, 2019

DYCHTER LAW OFFICES, APC

16 By /S/ Alexander I. Dychter

Alexander I. Dychter
Attorneys for Plaintiff
CLAUDINE SALDIVAR

19 **[PROPOSED] ORDER**

20 Having considered the Joint Stipulation of Dismissal; [proposed] Order, and good cause
 21 appearing for the reasons stated therein, the following is hereby GRANTED:

22 a. Plaintiff's PAGA Claim is dismissed *with prejudice* as to Plaintiff's ability to
 23 bring a PAGA representative action, and *without prejudice* as to the ability of any other allegedly
 24 aggrieved employee to pursue a new PAGA representative action consistent with PAGA's
 25 requirements;

26 b. Plaintiff's release of her potential FLSA claims is approved; and

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1 c. Each Party shall bear its respective fees and costs, except to the extent that the
2 Settlement provides otherwise.

3 **IT IS SO ORDERED.**

4 Dated: June 4, 2019



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